

REMARKS

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1, 3, 4, 7, and 13-40 are pending.

Applicants note with appreciation the Examiner's time and effort during an Examiner interview with Applicant's representative on February 4, 2009. At that time, the Examiner's art grounds of rejection were discussed, but no agreement was reached.

Claims 17-18 stand rejected under 35 U.S.C. § 112, first and second paragraphs.

Applicants have cancelled claims 17 and 18 rendering these rejections moot.

Claims 1, 3-4, 7 and 13-40 stand rejected under 35 U.S.C. § 103 as being unpatentable over Nagai in view of Timmermans and Kim. Applicants respectfully traverse this art grounds of rejection.

The Examiner admits on page 4 of the November 14, 2008 Office Action that "Nagai does not disclose that the key management information is recorded in wobbled pattern by a bi-phase modulation method." The Examiner relies upon Timmermans as disclosing the storage of a decryption key in a track wobble pattern, and relies upon Kim as teaching the recording of a wobble pattern using a bi-phase modulation method. Even assuming the Examiner's contentions are correct, the Examiner has failed to show that the combination of Nagai, Timmermans and Kim teaches recording copy protection indicating information in a wobbled pattern by a bi-phase modulation method.

In reading the copy protecting indicating information on Nagai, the Examiner appears to contend that this reads on the number of keys information 504 illustrated in FIG.5. Applicants submit that if the number of keys information was recorded in a wobbled pattern, this would make directly identifying the number of keys difficult and counter productive to the purpose behind supplying this information. Furthermore, neither Timmermans nor Kim disclose or

suggest recording such information in a wobbled pattern. Consequently, neither the art nor the Examiner has provided any teaching or motivation for copy protection indicating information being recorded in a wobbled pattern by a bi-phase modulation method. Instead, recording number of key information 504 in this manner would have been directly contrary to what one skilled in the art would have done.

Therefore, claim 1 is not rendered obvious to one skilled in the art by Nagai in view of Timmermans and Kim.

Claims 7, 13, 19, 24, 30 and 36 include similar limitation to those discussed above with respect to claim 1 and are allowable at least for the reasons stated above with respect to claim 1. The remaining pending claims depend, either directly or indirectly from one of the above discussed independent claims, and are allowable at least for the reasons stated above with respect to those independent claims.

Furthermore, claim 4 recites that the copy protection indicating information “signifies to reproduce the main data based on the copy protection information.” As discussed above, the Examiner is reading the copy protection indicating information in the claimed invention on the number of keys information 504 such as shown in FIG. 5 of Nagai. However, information 504 in Nagai only indicates the number of keys in the key management area. This information does not signify to reproduce main data based on those keys. For example, even though keys are included in the key management information, none of the main data may actually be scrambled using those keys. Alternatively, only a subset of the keys may be used in scrambling portions of the main data. Instead, Nagai teaches with respect to FIG. 4 the use of scramble control information 407. As disclosed in column 12, lines 38-42, the scramble control information is a flag for showing whether or not the main data has been scramble and that information corresponding to a

key for scrambling the main data is recorded. However, this scramble control information 407 is recorded in the user data area 102, not a lead-in area 101 in Nagai. More particularly, this scramble control information 407 is recorded along with the main data. Therefore, Nagai cannot possibly teach copy protection indicating information as recited in claim 4 being recorded in a lead-in area as a wobbled pattern by a bi-phase modulation method. Nor do Timmermans or Kim overcome these disclosure and suggestion deficiencies of Nagai. Therefore, for these additional reasons, claim 4 is not rendered obvious to one skilled in the art by Nagai in view of Timmermans and Kim.

In view of the above, Applicants respectfully request that the Examiner withdraw the at grounds of rejection.

CONCLUSION

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Gary D. Yacura, at the number of the undersigned listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, PLC

By


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